

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations and practices of Vycera Communications, Inc. (U-5477) and its officers and primary shareholders, Derek M. Gietzen and Thalia R. Gietzen, to determine whether respondents have violated the laws, rules and regulations governing the manner in which California consumers are switched from one telephone carrier to another and billed for telephone products or services.

Investigation 04-07-005
(Filed July 8, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUIRING PARTIES TO MEET AND CONFER,
FILE PREHEARING CONFERENCE STATEMENTS, AND
SETTING PREHEARING CONFERENCE**

I. Background

On July 21, 2004, the Commission issued its Order Instituting Investigation and Order to Show Cause 04-07-005 (OII) into the operations and practices of Vycera Communications, Inc. and its officers and primary shareholders (Vycera or respondents). The Commission issued the OII in response to numerous consumer complaints of unauthorized transfers of telephone service as well as billings for unordered services. Commission staff also provided the results of its investigation, which showed that Vycera used an automated third-party verification method that failed to produce reliable verification of customers' orders. More seriously, staff suspected that some tape recordings had been altered.

The purpose of the OII is to determine whether Vycera violated provisions of the Public Utilities Code and the Commission's Rules, and, if so, whether reparations, fines, or other remedies should be ordered. These issues will be resolved through evidentiary hearings.

II. Prehearing Requirements

To ensure an efficient hearing process, the parties shall meet and confer, file and serve prehearing conference (PHC) statements, and participate in a PHC.

A. Meet and Confer

No later than August 18, 2004, the parties are directed to meet and confer regarding the potential for factual and legal stipulations, mutually agreed upon issue statements, proposed procedural schedules, possible witness lists and any other preliminary matter that might simplify the hearing process.

B. PHC Statements

No later than August 23, 2004, the parties are directed to file and serve, with electronic mail courtesy copies, PHC statements that concisely address:

1. the status or likelihood of settlement negotiations;
2. any suggestions for alternative dispute resolution mechanisms which may enhance the probability of an agreed-upon resolution;
3. a description of the specific disputed issues of material fact that the Commission must decide in this proceeding;
4. an outline of the evidence, including number of witnesses and subject matter, necessary to form a complete record on the factual issues;
5. a description of any outstanding legal questions which must be resolved;

6. staff shall include any recommendations for immediate actions necessary to protect California consumers, e.g., a cease and desist order, specific directions to incumbent local exchange carriers regarding billing and collection agreements or possible withholding of funds pending further order of the Commission;
7. staff shall also include its preliminary recommendation on fines and any other penalties or remedies; and
8. a proposed procedural schedule.

C. Prehearing Conference

A PHC is scheduled for Thursday, August 26, 2004, at 10:00 a.m., in the Commission Courtroom, State Office Building, 505 Van Ness Avenue (at McAllister), San Francisco, California.

IT IS SO RULED.

Dated July 29, 2004, at San Francisco, California.

/s/ MARIBETH A. BUSHEY

Maribeth A Bushey
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring Parties to Meet and Confer, File Prehearing Conference Statements, and Setting Prehearing Conference on all parties of record in this proceeding or their attorneys of record.

Dated July 29, 2004, at San Francisco, California.

/s/ FANNIE SID
Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.